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Security Council

Sixtieth year

Provisional

5323rd meeting

Tuesday, 13 December 2005, 3 p.m.

New York

President	Sir Emyr Jones Parry	(United Kingdom)
Members	Algeria	Mr. Baali
	Argentina	Mr. Mayoral
	Benin	Mr. Zinsou
	Brazil	Mr. Sardenberg
	China	Mr. Zhang Yishan
	Denmark	Ms Løj
	France	Mr. De La Sablière
	Greece	Mr. Vassilakis
	Japan	Mr. Oshima
	Philippines	Mr. Lancanilao
	Romania	Mr. Motoc
	Russian Federation	Mr. Denisov
	United Republic of Tanzania	Mr. Mahiga
	United States of America	Mr. Bolton

Agenda

The situation in the Middle East

Letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/775)

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05-63915 (E)

The meeting was called to order at 3.15 p.m.

Adoption of the agenda

The agenda was adopted.

The situation in the Middle East

Letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council (S/2005/775)

The President: I should like to inform the Council that I have received letters from the representatives of Lebanon and the Syrian Arab Republic, in which they request to be invited to participate in the consideration of the item on the Council's agenda. In conformity with the usual practice, I propose, with the consent of the Council, to invite those representatives to participate in the discussion, without the right to vote, in accordance with the relevant provisions of the Charter and rule 37 of the Council's provisional rules of procedure.

There being no objection, it is so decided.

At the invitation of the President, Mr. Assaf (Lebanon) and Mr. Mekdad (Syrian Arab Republic) took seats at the Council table.

The President: In accordance with the understanding reached in the Council's prior consultations, I shall take it that the Security Council agrees to extend an invitation under rule 39 of its provisional rules of procedure to Mr. Detlev Mehlis, Commissioner of the United Nations International Independent Investigation Commission.

There being no objection, it is so decided.

I invite Mr. Mehlis to take a seat at the Council table.

I welcome the presence among us this afternoon of the Secretary-General, Mr. Kofi Annan.

The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

I should like to draw the attention of the members of the Council to photocopies of a letter dated 12 December 2005 from the Secretary-General addressed to the President of the Security Council, transmitting the report of the United Nations International Independent Investigation Commission prepared pursuant to resolutions 1595 (2005) and 1636 (2005). The letter and its enclosure will be issued as a document of the Security Council under the symbol S/2005/775.

I now welcome Mr. Detlev Mehlis, Commissioner of the United Nations International Independent Investigation Commission, to whom I give the floor.

Mr. Mehlis: The United Nations International Independent Investigation Commission (UNIIIC), which was created pursuant to Security Council resolution 1595 (2005), has been through two mandate renewals. It issued its first report (S/2005/662) on 19 October and submitted its latest report to the Secretary-General on Sunday, 11 December, prior to the end of its mandate on 15 December.

The report reflects the outcome of the work the Commission has carried out since its last extension seven weeks ago. Security Council resolution 1636 (2005), which was adopted on 31 October, has been instrumental in helping our work. Indeed, if resolution 1595 (2005) gave executive authority to the Commission, resolution 1636 (2005) built on it, giving it further authority so as to enable it to move forward with the investigation on all its tracks and to attain its main objective: to help identify the perpetrators, sponsors, organizers and accomplices in the terrorist attack that killed former Prime Minister Rafik Hariri and 22 others on 14 February 2005, in Beirut.

In conformity with those resolutions, the Commission has pursued both existing and new lines of inquiry. It remained guided by the same principles of cooperation and information-sharing with the Lebanese security and judicial authorities. In that sense, one cannot but underscore the importance of the ever-closer links between the Commission and the Lebanese authorities in order to stay the course, with a steady pace in the investigation.

To date, the Commission has interviewed over 500 witnesses and has established, together with the Lebanese authorities, a list of 19 suspects. It has followed traces and leads developed since its inception and has focused on a number of promising tracks.

In the course of the investigation, it has become evident that the Commission is working mainly on two tracks: one Lebanese and one Syrian. On the Lebanese

track, the Commission has been able to resolve most impediments, thanks to the cooperation of the Lebanese authorities and their willingness to help and facilitate the Commission's work in all ways possible. It is the Commission's view that the convergence of many factors — such as the overhaul of the security apparatus, the arrest of four former security officials, among others, the expanded authority granted to the Commission through resolution 1636 (2005); and the ensuing interviews of Syrian suspects — has boosted the confidence and resolve of the Lebanese people and Government.

Despite the widespread apprehension that preceded the issuance of the Commission's October report and the anxieties that lingered afterwards, the security situation remained calm until yesterday's incident. In this respect, on behalf of the Commission, I would like to pay tribute to the memory of the victims of yesterday's bombing attack in Beirut. I would like to express my sincere condolences and my deepest sympathy to their families and friends. I met with Mr. Gebrane Tueni in order to interview him as a witness in the Hariri case, and it is very sad that he left us under such horrendous circumstances.

In parallel to the Lebanese track, the Commission has been trying hard to make headway on the Syrian track. The Commission's relations with the Syrian authorities have been marked by conflicting signals. It was not clear at all times who from the Syrian side is the privileged interlocutor of the Commission. This has caused confusion and delays.

I was here seven weeks ago in this very Chamber (see S/PV.5292), suggesting to the Syrian authorities that they carry out their own investigation into the assassination of Mr. Hariri. Resolution 1636 (2005), particularly its section III, set out a clear and unambiguous framework for Syria's work with the Commission, calling for full and unconditional cooperation. Yet, it has been after much hesitation and procrastination that the Syrian authorities finally agreed to move on the request to interview five Syrian officials whom the Commission considers as suspects, in Vienna and on conditions determined by the Commission. This took place only a week ago. At this rate, the investigation may take another year or two. Cooperation and good faith should be diligent and timely.

Yet the Syrian authorities did indeed make the five Syrian suspects available for questioning under conditions set out by the Commission. This latest development is undoubtedly an important stage in the investigation. The Commission has recorded the extensive interviews of the Syrian suspects, the statements have to be assessed, and new evidence has to be reviewed before leading to the questioning of new witnesses or suspects. Consequently, this might be the starting point of the much-sought-after cooperation of the Syrian authorities with the Commission. It remains to be seen whether Syrian cooperation will be in full and without any conditions.

In his letter dated 14 October 2005 (S/2005/651, annex), the Prime Minister of Lebanon requested, on behalf of the Lebanese Government, an extension of UNIIIC's mandate for another six months. The Commission supports that request and recommends such an extension, as set out in resolution 1636 (2005). However, the Commission cannot prejudge the actual length of the investigation it has been carrying out at the behest of the Lebanese Government. Many factors are to be taken into account. This has been and will remain, first and foremost, a Lebanese investigation.

The Commission should pursue its work as long as its assistance is needed and sought. Moreover, it cannot be overemphasized that the Syrian authorities are also responsible for the pace of the investigation, because this depends on the extent of their full and unconditional cooperation.

In conclusion, I wish to express my heartfelt thanks to all the parties, and particularly to the Secretary-General, for the enduring efforts they have exerted in order to help the Commission move ahead.

It is with regret that I shall be leaving the Commission as soon as a successor is appointed. I will, however, of course, remain available to help and assist whenever the need arises.

The President: I thank Mr. Mehlis for his briefing.

I now give the floor to the representative of Lebanon.

Mr. Assaf (Lebanon) (*spoke in Arabic*): First of all, Mr. President, I would like to thank you for having invited us to participate in this meeting. We express our gratitude for your efforts and those of the

Secretary-General, in following recent developments in the situation in my country.

I would also like to thank the United Nations International Independent Investigation Commission (UNIIIC), which is responsible for the inquiry into the assassination of former Prime Minister Rafik Hariri, as well as its head, Mr. Detlev Mehlis, for their enormous and effective professional efforts. These are reflected in the report submitted today.

We wish Judge Mehlis every success in his future tasks after his praiseworthy efforts in Lebanon. We hope that we can continue our constructive cooperation with his successor so that the investigation can proceed with the same energy and determination. That is vital, and it is the wish of all sectors of the Lebanese people.

We hope that, as we have requested, and in accordance with resolution 1636 (2005), the Security Council will decide to extend the mandate of the International Independent Investigation Commission for a renewable six-month period, according to the Commission's needs. The judicial and security bodies of Lebanon will continue their cooperation with the Commission. In that context, we invite all parties concerned to extend their genuine and rapid cooperation to the Commission, in accordance with Security Council resolutions 1595 (2005) and 1636 (2005), by shedding light on all aspects of that terrorist crime and punishing all the perpetrators in order to preserve the region's stability and security.

International precedents show that the best way to judge those involved in serious crimes of this nature is to establish an international tribunal so that justice can be delivered through fair trials free of pressure and obstacles. In accordance with paragraph 14 of Security Council resolution 1636 (2005), by which the Security Council expresses its readiness to consider any additional request for assistance from the Lebanese Government to ensure that all those responsible for the crime are held responsible, the Government of Lebanon today asked the Security Council to establish an international tribunal, which could have its seat either in or outside Lebanon, and which would try all those who, in the judgement of the Commission, were involved in the terrorist crime that claimed the lives of Prime Minister Rafik Hariri, Member of Parliament Bassil Fuleihan and their companions.

The series of terrorist acts has continued. The latest incident occurred yesterday, when Member of Parliament and journalist Mr. Gebrane Tueni was killed. We have seen that there is a link joining the terrorist crimes that began with the attempted assassination of Economy Minister Marwan Hamadeh on 1 October 2004. All those crimes have been thoroughly condemned by the Lebanese people. The Security Council too has condemned those crimes. Accordingly, the Government of Lebanon has requested in writing that the Security Council extend the mandate of the International Independent Investigation Commission established pursuant to resolution 1595 (2005) or that it establish another international investigation commission to help the Lebanese authorities in the current investigation of all other terrorist crimes, assassinations and attempted assassinations of political and media figures in Lebanon, starting with the attempted assassination of Mr. Marwan Hamadeh on 1 October 2004.

Mr. Mekdad (Syrian Arab Republic) (*spoke in Arabic*): Allow me at the outset to congratulate you, Sir, on your assumption of the presidency of the Security Council for the current month. I thank you for giving us this opportunity to express the views of the Syrian Arab Republic concerning the second report of the International Independent Investigation Commission. Allow me also to express our appreciation to Mr. Andrey Denisov, Permanent Representative of the Russian Federation to the United Nations, and the members of his mission for their conduct of the work of the Council last month.

I would like to join you, Sir, in welcoming the presence of Secretary-General Kofi Annan, who is with us today at this meeting of the Security Council.

Allow me to start by reiterating once again Syria's condemnation of the operation that led to the assassination of the former Prime Minister of Lebanon, Mr. Rafik Hariri. I would also like to reiterate Syria's condemnation of the bombing that took place in a Beirut suburb yesterday, which took the life of Mr. Gebrane Tueni. Syria condemns the earlier series of bombings aimed at destabilizing Lebanon and creating tensions in the relations between Syria and Lebanon as well as the attempt to immediately blame those bombings on Syria. All those actions are part of a broader plan to destabilize the region as a whole.

Today's consideration of the second report of the International Independent Investigation Commission (S/2005/775) provides a further opportunity for Syria

to express its commitment to cooperating with the Commission. I would like to reiterate that Syria is making every possible effort to facilitate the task of the Commission so that it can discharge its mandate in the best possible manner.

In that context, we disagree with the imprecise statements contained in the Commission's report, referring to Syria's reluctance to fully cooperate with the Commission and its work. On the contrary, Syria has consistently and continuously communicated with the Commission. That is documented through the contacts and the exchanges between the two parties that ultimately led to a mutual understanding on the modalities for conducting the investigation in Vienna.

Contrary to the statement contained in paragraph 30 of the report, the special Syrian Judicial Commission, since its creation, has discharged its tasks in a professional and transparent manner. It has assisted the International Commission with all the investigations conducted in Syria and provided all the records, information and lists required. The Security Council can examine those details whenever it wishes to do so. The International Independent Investigation Commission's non-recognition of the Syrian Judicial Commission led to an undesirable delay. We had hoped that the International Commission would show interest in cooperating with the Syrian Judicial Commission. We would have liked to see constructive interaction between the two bodies in order speedily to attain the Council's objectives. The Syrian Judicial Commission will continue its work so that information from the International Commission can be made available to it, enabling it to fully discharge its mandate.

The rights of the States concerned in the investigation had to be clear, specific and consistent with the purposes and principles of the United Nations Charter and in conformity with the generally recognized principles of international law. I believe that the Commission did not maintain one of the investigation's most important principles — confidentiality. Its reports were consistently leaked to the media and were handled in a distorted and prejudiced manner. We do not believe that the members of the Security Council, when they voted to adopt resolution 1636 (2005), sought to encroach upon State sovereignty or to ignore the commitment to implement basic norms of human rights.

In order to reaffirm our desire to cooperate, we informed the International Independent Investigation Commission that the Minister for Foreign Affairs of the Syrian Arab Republic would welcome a meeting with the head of the Commission in Damascus or during an official visit to Europe. The understanding reached between the representatives of the Syrian Foreign Ministry and the Commissioner led to the Commission's agreement to implement the basic guarantees contained in international human rights conventions with respect to criminal proceedings. However, the Commission's investigators did not follow those principles in the interviews conducted in Vienna. That led the appointed British lawyers to write a letter to the Commissioner in which they cited several irregularities in the investigation. For example, the investigators summarized the interviewees' statements instead of making a verbatim record; the lawyers were not given official copies of the records; and the interviewees were not allowed to sign their statements in Arabic versions, but had to sign their statements transcribed in a language that they do not understand.

The report of the International Independent Investigation Commission essentially reaffirms the conclusions of the previous report, which were based on the presumption of guilt and the making of prejudged accusations. Therefore, the criticisms of the previous report also apply to this one.

The task of the Commission must be to seek out evidence and leads that will enable it to identify the perpetrators of the crime and to build on such evidence and leads in order to identify those who were involved in its planning, direction and implementation. In that regard, we would like to make the following basic comments.

First, the witness Hussam Taher Hussam arrived in Syria abruptly. He made some statements and clarifications to the international media of his own free will, recanting his previous testimony to the International Independent Investigation Commission. His statement was recorded by the Syrian Judicial Commission and its content was transmitted to the International Independent Investigation Commission. The International Commission could have summoned that witness to Vienna instead of continuing to rely on his previous testimony. There is no truth whatsoever to the report's statements that Mr. Hussam is being manipulated or intimidated and that some of his close

relatives in Syria were threatened and arrested before his public statement.

Secondly, we wonder why the Commission did not investigate the nature of Zuheir Saddik's movements between our region and certain European countries during the past few months, despite all the suspicions surrounding his testimony, which changed his status from that of a witness to that of a suspect, and despite the fact that he was arrested in France two months ago and is still being held. There has been no response thus far to the request for his extradition. The Syrian Embassy in Paris received a handwritten letter from him stating that he had been kidnapped and coerced to give his previous testimony, upon which the Commission continues to rely in its new report.

It is noteworthy that, as stated in paragraph 28 of the report, the Commission determined through an analysis of Mr. Saddik's DNA that a substantial part of his statement was false: namely, the part related to his purported attendance at meetings in an apartment in the Beirut suburb of Al-Dahiyye to plan the crime. Therefore, the Commission must conclude that the rest of his testimony is also false and invalid.

Thirdly, in the report, the Commission has not yet been able to determine how the Mitsubishi vehicle carrying the explosives arrived in Lebanon. The previous report assumed that it might have entered Lebanon through Syria on the basis of testimony given by witnesses who were proved to lack credibility: Zuheir Saddik and Hussam Hussam.

Fourthly, both reports referred to the possible presence of a third party, but the Commission did not attach due significance to that possibility, despite the fact that it is extremely important for the completion of the investigation.

We have commented on some of the basic issues covered in the report. We would like to make additional comments and observations, but time constraints do not allow us to do so. Here, I should like to reiterate once again that Syria, which has cooperated fully with the investigation during the recent period, is prepared to continue to do so in the forthcoming period.

Syria requests that the Council take into account the comments made in my statement. In addition, I would like to point out that Syria, which has fully implemented all the relevant United Nations resolutions, looks to the Security Council and its members to work with the same zeal and interest to ensure the implementation of Council resolutions relevant to the Middle East region.

The President: In accordance with the understanding reached in the Council's prior consultations, I should now like to invite Council members to informal consultations to continue our discussion on the subject.

The meeting rose at 3.50 p.m.